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Paper 274  
Entered: 22 October 2007

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference 104,776 (McK)  
Technology Center 1600

IAN FRAZER and JIAN ZHOU

Application 08/185,928,  
Junior Party,

V.

C. RICHARD SCHLEGEL and A. BENNETT JENSON,

Application 08/216,506,  
Senior Party,

*Before: FRED E. McKELVEY, Senior Administrative Patent Judge, and  
RICHARD E. SCHAFER and JAMES T. MOORE,  
Administrative Patent Judges.*

**McKELVEY, Senior Administrative Patent Judge.**

## AMENDED JUDGMENT

## Discussion

33 On 20 September 2005, the Board entered a judgment awarding  
34 priority against Frazer. Paper 264.

35 Frazer timely sought judicial review of our judgment by an appeal to  
36 the U.S. Court of Appeals for the Federal Circuit. Paper 268.

1 On 20 August 2007, the U.S. Court of Appeals for the Federal Circuit  
2 entered its opinion in which it reversed our award of priority against Frazer  
3 and awarded priority to Frazer and against Schlegel. *Frazer v. Schlegel*,  
4 Appeal 06-1154 (Fed. Cir. Aug. 20, 2007). Paper 272, page 12.

5 A mandate was issued on 10 September 2007 and was received by the  
6 Patent and Trademark Office on 16 October 2007, Paper 273.

7 The opinion and mandate of the U.S. Court of Appeals for the Federal  
8 Circuit governs further proceedings in this case. 35 U.S.C. § 144, last  
9 sentence.

10 This AMENDED JUDGMENT is being entered to implement the  
11 opinion and mandate entered by the U.S. Court of Appeals for the Federal  
12 Circuit.

13 Order

14           Upon consideration of opinion and mandate of the U.S. Court of  
15           Appeals for the Federal Circuit, it is

16 ORDERDED that, consistent with the opinion and mandate of  
17 the U.S. Court of Appeals for the Federal Circuit, judgment on priority is  
18 awarded to Junior Party Ian Frazer and Jian Zhou and against Senior Party  
19 C. Richard Schlegel and A. Bennett Jenson.

20 FURTHER ORDERED that Senior Party C. Richard Schlegel  
21 and A. Bennett Jenson is not entitled to a patent containing claims 1-3,  
22 12-14, 16, 19, 23-25, 46-47, 50, 52-53, 55-60, 62 and 64 of application  
23 08/216,506.

24 application 08/216,506,  
25 filed 22 March 1994.

1                   **FURTHER ORDERED** that a copy of this AMENDED  
2 JUDGMENT shall be placed in the files of (1) Frazer application 08/185,928  
3 and (2) Schlegel application 08/216,506.

4                   **FURTHER ORDERED** that the Clerk is directed to distribute  
5 the files upon entry of this AMENDED JUDGMENT.

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